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**Title:** Regulating *Maṣlaḥa* Reasoning & the Production of a *Fiqh al-Thawra* After the 2011 Egyptian Revolution

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**Abstract:** This chapter investigates the *maṣlaḥa*-based reasoning of the '*ulamā*' during the Egyptian Revolution and its aftermath, focusing in particular on 'Ali Jum'a, Ahmad al-Tayyib, Yusuf al-Qaradawi, as well as members of Qaradawi's network the International Union of Muslim Scholars (IUMS). I show that the changes the '*ulamā*'s arguments undergo during the Revolution demonstrates that their understanding of the *maṣlaḥa* takes shape interdependently, rather than in isolation. Moreover, I show that, for the '*ulamā*', what is at state is the common good (*maṣlaḥa*) of the Egyptian nation, rather than the community. This difference is significant because the concept of the nation contains a host of new assumptions that the '*ulamā*' can appeal to as the make their arguments, notably the assumption that nations must progress.

## Introduction

The contemporary '*ulamā*' legitimate their interventions in the Arab public sphere by appealing to the concept of *maṣlaḥa*, or the common good. This trend was initiated by Muhammad 'Abduh (d.1905) and Rashid Rida (d.1935), who expanded the conceptual remit of *maṣlaḥa* in order to reinvigorate the '*ulamā*'s voice in the public sphere.<sup>1</sup> However, because *maṣlaḥa* arguments utilize utilitarian reasoning, rather than being explicitly rooted in the source texts, the '*ulamā*' who intervene in the public sphere in the name of *maṣlaḥa* are vulnerable to the argument that they are twisting the texts in favor of their whims.

In this chapter I am interested in how the '*ulamā*' respond to this concern, and I use the work of Yusuf al-Qaradawi (b.1926) and his '*ulamā*' allies during the 2011 Egyptian Revolution and its aftermath as an example. Qaradawi is the most well-known of the '*ulamā*' who supported the Revolution, and he couched his reasoning in terms of the *maṣlaḥa*. However, over the course of the eighteen days of the Revolution Qaradawi's reasoning changed in response to both unfolding events and the counter-arguments of his '*ulamā*' interlocutors who supported the Mubarak regime.

Here I will make three points about contemporary '*ulamā*' and their concern over consistency in their reasoning, or the lack of it. First, I argue that the '*ulamā*'s concern with appearing consistent is a result of their internalization of the distinction between religion and politics. This internalization manifests itself in the '*ulamā*'s assumption, which their critics share, that religious interventions in the realm of politics must be consistent if they are to be considered sincere and not manipulative. Second, I will show that the '*ulamā*'s understanding of the substance of the *maṣlaḥa*, what the common good actually is in a given situation, forms

interdependently through contestation. As such, the '*ulamā*' do not meditate in private upon the common good, and then intervene in the public sphere consistently on behalf of that position. Rather, their arguments change, both in the short term and the long term. However, that does not mean that '*ulamā*' are not concerned about being accused of inconsistency, the opposite in fact. Therefore, my third point is to show how the '*ulamā*' make use of networks of supporters, Qaradawi and his allies in this instance, to produce Islamic legal knowledge *ex post facto* in order to produce the effect that their *maṣlaḥa* reasoning was consistent with both a theory and the source texts. The production of Islamic knowledge under the rubric of *fiqh al-thawra* (the jurisprudence of revolution) after the Egyptian Revolution is evidence of this phenomenon.

In order to make these arguments, and after a brief discussion of *maṣlaḥa* in contemporary *fiqh* theory, I will use Qaradawi's media interventions during the eighteen days of the Egyptian Revolution to demonstrate how his *maṣlaḥa* arguments changed in response to the counter-arguments of his interlocutors, particular the former Egyptian Grand Mufti 'Ali Jum'a (b.1952) and the Shaykh of al-Azhar Ahmad al-Tayyib (b.1946). I then draw upon a selection of four books and articles that were produced by Qaradawi's allies from the International Union of Muslim Scholars (IUMS) and the Association of Qaradawi's Students (*Rābiṭat Talāmīdh al-Qaradāwī*, RTQ). After the Revolution these allies produced Islamic legal knowledge to provide an *ex post facto* theory that would create the effect that Qaradawi's *maṣlaḥa* arguments had been consistent. This theory was called *fiqh al-thawra*.

### ***Maṣlaḥa* in Modern *Fiqh***

In premodern *fiqh* *maṣlaḥa* was a minor and somewhat controversial concept. Jurists were hesitant to utilize *maṣlaḥa*-reasoning given that such considerations were not explicitly rooted in the source texts. Though a number of jurists did utilize *maṣlaḥa*-reasoning, the concept's place in the premodern Islamic legal schema was always a tenuous one.<sup>2</sup> This situation changed when 'Abduh and Rida argued for the transformation of the status of *maṣlaḥa*. Their vision for the renewal of the *fiqh* tradition depended upon bringing *maṣlaḥa* from the margins of *fiqh* theory to its center. Rida elaborated upon the pre-existing distinction between ritual acts of worship (*ibādāt*), which were immutable and grounded in an explicit text, and legal rulings that concerned human interactions (*mu'āmalāt*), which were subject to change. In his effort to render *maṣlaḥa* an autonomous source of law in its own right, Rida argued that all *mu'āmalāt* rulings were revisable according to changing social conditions. Significantly, these revisions could be made on the basis of *maṣlaḥa* alone.<sup>3</sup> However, Rida seemed uncomfortable at the extent to which his emphasis on *maṣlaḥa* appeared to prioritize human will at the expense of the divine will evidenced in the text.<sup>4</sup> Nor did Rida articulate a definitive model for how the 'ulamā' should balance the perceived needs of the day with their reading of the texts as they sought to find and articulate the *maṣlaḥa* in the public sphere.<sup>5</sup>

### **The Fragmentation of Knowledge and the Mixing of Religion and Politics**

The period in which Rida was advancing his new ideas was a period characterised by the fragmentation of 'ulamā''s scholarly authority. New voices entered the public sphere in competition with the 'ulamā' and secular intellectuals, some trained at new educational

institutions like the Dār al-‘Ulūm,<sup>6</sup> began to articulate their own visions of the common good.<sup>7</sup> Moreover, the shift from the pre-modern to modern periods was characterised not only by a fragmentation of authority, but a fragmentation of knowledge. Modernity fragmented knowledge and social life into different spheres: culture, economics, politics etc. As part of this fragmentary process the knowledge that the ‘*ulamā*’ possessed was re-defined as a specialized form of knowledge called “religious” knowledge, because it was understood as arising from the study of “religious” texts.<sup>8</sup>

The assumption that religion and politics are two distinct forms of knowledge conforming to two distinct realms that should not, above all, mix originates in a process that began in sixteenth century Europe before spreading unevenly throughout the colonized world.<sup>9</sup> I argue that it is a result of this fragmentary process that the attempt to contribute religious knowledge to a different realm, particularly politics, came to be understood by both the ‘*ulamā*’ and their competitors as requiring additional justification. This is because these contributions were perceived by all involved as mixing religion and politics. An intervention that is understood as mixing religion and politics is met with suspicion regarding its legitimacy and sincerity, evidenced by the well-known Arab slogan “no politics in religion, no religion in politics.” While the ‘*ulamā*’ reject the argument that religion and politics should not mix, I contend that their rejections nevertheless demonstrate that they have internalized the religious-political distinction to the extent that is self-evident to them as well. Qaradawi, for example, arguing against the separation of religion and politics says, “It is not possible to improve human life if Islam is responsible for only part of it [...] it is not possible that Islam be [solely] for the mosque, while the school, university, law court, television, journalism, theatre, cinema, souq and street are [left]

to secularism.”<sup>10</sup> His argument for the relevance of religion to socio-political life is clearly rooted in the supposition that these terms relate to distinct realms.

### **The Interdependency of *Maṣlaḥa* Reasoning During the 2011 Egyptian Revolution**

The contemporary ‘*ulamā*’ do not intervene in the public sphere with fully-formed notions of what *maṣlaḥa* in a given situation actually is. Rather, they elaborate further upon their understanding of the *maṣlaḥa* in response to the counter-arguments of their interlocutors, who raise particular issues and contest certain parts of an ‘*ālim*’s argument while overlooking others. As such, over the course of the Egyptian Revolution Qaradawi elaborated upon his *maṣlaḥa* arguments in response to counter-arguments, but also changed his arguments in response to unfolding events.

The demonstrations that would cause Mubarak’s departure began on January 25 2011. However, Qaradawi waited until January 27, the third day of protests, before making his first intervention. In an interview with the Cairene newspaper *al-Shurūq*, Qaradawi’s initial message was one of general support,

There is no doubt that what happened in Tunisia is a powerful lesson, and should be repeated. The Arab nations are changing for the better, and should be granted their rights and their freedom [...] the people who have gone out to give voice to their desire [for freedom], no one is defending them, and no party or political force is representing them, but they represent Egypt.<sup>11</sup>

Four protesters had been killed by the police that day, and Qaradawi attempted to dissuade the police from further violence saying, “I want Egypt to become like other countries, that treat protesters with respect, and not be subjected to violence. The expression of an opinion is a

human right.” Referring to the police, Qaradawi added, “Whoever says he is a servant of the ruler, I say to him, you are servant of God, and the killing [of protesters] is forbidden.”<sup>12</sup>

The following day, January 28 2011, Qaradawi’s language shifted to a different register and incorporates more explicit references to Qur’an and Hadith. In an interview with al-Jazeera Qaradawi commented upon the concept of obedience to the ruler. Qaradawi speaks about this subject because other *‘ulamā’* in Egypt had begun to raise it as part of their rationale for continuing to support Mubarak.<sup>13</sup> As such, obedience to the ruler had become part of the conceptual terrain over which the *maṣlaḥa* was being contested. Though Islam maintains a general principle of obedience, Qaradawi said, the ruler’s right to obedience was not absolute. By way of justification, Qaradawi quotes the Qur’an’s rebuke to those who obeyed Pharaoh (43:54), and argued that the right to obedience was enjoyed only by the ruler who was obedient to God, and implemented His rule in the spirit of justice, dignity, and freedom.<sup>14</sup> It is noteworthy that Qaradawi referred to the abstract category “Islam” rather than a particular text or authority. Referring to Islam in this manner, I suggest, is evidence that Qaradawi considers himself to be contributing a distinct brand of knowledge, religious knowledge, to the public sphere.

That day was the second day of demonstrations, and the regime’s attempts to suppress the protestors had intensified. Communication networks had been disrupted, and eleven protestors had been killed by the police in Suez while the Interior Ministry warned darkly of taking “decisive measures” to end the protests.<sup>15</sup> It was in response to these new developments that Qaradawi began to argue that Mubarak was not a ruler entitled to obedience saying,

As for [the ruler] who rebels against the religion (*al-dīn*), and oppresses the people, steals and plunders their wealth, how can he be obeyed? There is no



obedience to anyone who is disobedient (*ma 'siyya*) to God, Muslims are all in agreement about that [...] as it says in the hadith “there is to be no obedience to that which is disobedient to God, but rather obedience is to that which is good.”<sup>16</sup>

That same day, Mubarak dismissed the Egyptian Cabinet, and appointed for the first time a Vice-President to implement “constitutional and legislative reforms.” Nevertheless, riots continued throughout the night across the country.<sup>17</sup>

The following day, the Shaykh of al-Azhar al-Tayyib gave a statement to the media. Tayyib argued that while the initial protests were legitimate in calling for reform, the appointment of a Vice-President and Mubarak’s subsequent promises of change represented the fulfilment of this demand. As such, Tayyib argued that the protests “no longer have any meaning” and had achieved their goals. While Tayyib described those who have been killed during the protests up to that point as martyrs, given the increasing violence across the country, he argued that further protests represented a “call to chaos,” and a rebellion (*khurūj*). He also described the ‘*ulamā*’ (i.e. Qaradawi) who have called for further protests as “beckoning toward the gates of Hell.”<sup>18</sup> That same day, January 29 2011 was the first time Qaradawi echoes the demonstrators’ calls for Mubarak to leave office. Responding to Tayyib’s argument that the sacking of the government and promises of reform were sufficient, Qaradawi replied that Mubarak “Lives in a different world, and has no feeling for what is happening in the Egyptian street.”<sup>19</sup>

Jum‘a waited until February 2 to make his first major statement to the media. That day had been the most violent of the Revolution so far. Approximately 1500 people had been injured in Cairo as pro-Mubarak supporters attacked the protesters in Tahrir Square with sticks and knives.<sup>20</sup> Speaking to the media that day Jum‘a called on the protesters to return to their homes,

and justified his argument by referring to “common ground of the country” (*maṣlahat al-balad*), which Jum‘a understood as the need to preserve life and property. What is needed is “change, not destruction” (*taghyyīr laysa tadmīr*),<sup>21</sup> Jum‘a said. In another statement Jum‘a blamed the protestors for causing the turmoil.<sup>22</sup> As Jum‘a places the blame for the current turmoil upon the protestors, he cites a well-known hadith that reads “Fitna is sleeping, may God curse whoever wakes it.”<sup>23</sup> Though non-violent protests are not illegitimate in themselves, Jum‘a reasoned, what made them illegitimate is if they lead to violence and chaos, which to him was clearly occurring in this instance. Jum‘a’s reasoning was based upon the principle that an otherwise lawful action was rendered unlawful on the basis of its consequences (*sadd al-dharā’i*).<sup>24</sup>

Qaradawi’s own statement on February 2 was intended as a response to Jum‘a’s argument, and it took up the new themes he raised. Qaradawi contested Tayyib and Jum‘a’s argument that the protests represented a rebellion, and instead expanded upon the pre-existing principle that there is an obligation upon individuals to advise a ruler who has strayed, which Qaradawi said was part of the obligation to command the right and forbid the wrong. Qaradawi argued that the obligation to advise a ruler fell upon Muslims as a collective and the protestors were performing this obligation by their actions. Addressing the increasing violence, and Jum‘a’s argument that further protests should be forbidden, Qaradawi argued that Islam prescribed strict rules that regulated rebellion so that it did not lead to civil war. At the same time, Qaradawi argued that peaceful resistance had become “a means to bring about positive change worldwide, and often leads to the fall of dictatorships” and Islam welcomed such new practices.<sup>25</sup>

During the Revolution it was on Fridays after the congregational prayer that the largest demonstrations occurred. As such, both Jum‘a and Qaradawi made their statements on February

2 with the following Friday, February 4, in mind. Qaradawi urged all Egyptians who were able to take to the streets after the prayer, referring to the coming February 4 as “The Friday of Resolution” (*jum‘at al-ḥasm*).<sup>26</sup> Jum‘a made his counter-argument in an interview the following day, Thursday February 3. While he expressed sympathy with those protesting against the government (“the issue is that people cannot even find a mouthful of bread”) Jum‘a painted a picture of increasing chaos throughout the country. He viewed the protests as even clashes between supporters and opponents of the government, rather than simply a one-sided government repression of dissent. With that in mind, Jum‘a issued a fatwa allowing people to set aside the obligation to perform the congregational prayer saying, “Is it permissible for people to go to the Friday prayer tomorrow? Yes. But if people are fearful for their person or property (*khawf al-fitna ‘alā nafs wa’l-māl*), it is possible they can set aside the prayer. I am not saying do not go to prayer tomorrow, but it is permitted [to not go].”<sup>27</sup> In that instance Jum‘a was referencing a pre-existing position held across the *madhāhib* that the obligation to perform the congregational Friday prayer could be set aside during times of strife. Jum‘a added that he had received hundreds of calls from Egyptians who were fearful of the chaos in the streets.<sup>28</sup>

That Friday, hundreds of thousands of protesters gathered in Tahrir Square after the prayer, though it was not until a week later that Mubarak finally resigned. As Qaradawi praised the Revolution’s success Doha that day, he described it as the end result of decades of perseverance (*ṣabr*) under unjust rule. As he did so, Qaradawi divided up the time that Egyptians had lived under dictatorship into three stages: perseverance under unjust rule, a popular uprising, followed by the overthrow of the government. Qaradawi arranged these three stages according to the well-known hadith, “He who among you sees something abominable should change it by his

hand; and if he has not strength to do that, he should do it by his tongue; and if he has not strength to do even that, then he should [abhor it] in his heart; that is the least of faith.” For Qaradawi, the final stage of overthrowing the government could only come after passing through earlier demonstrations, and a long period of perseverance under unjust rule when people were silent and only abhorred their oppressors in their hearts. Qaradawi describes this period of perseverance as a “Jihad of the Heart” saying, “what does it mean to make Jihad through your heart? It means that you boil inside, waiting for the hour that [the heart] explodes into a sudden outburst of emotion and positive action.”<sup>29</sup> One reason Qaradawi presents this chronology is because he had not consistently called for the overthrow of Egypt’s dictators since his exile to Qatar in 1961, and at times had been rather ambivalent toward the Mubarak regime.<sup>30</sup> As such, Qaradawi’s purpose in positioning the Egyptian Revolution as an outcome of decades of perseverance under dictatorship is to provide a model that explains why his *maṣlaḥa* reasoning in previous years had not consistent with his support for the 2011 Revolution.

As Qaradawi advanced his understanding of the *maṣlaḥa* over the course of the eighteen days of the Revolution, the substance of his arguments changed. Qaradawi shifted from a statement of general support for the demonstrations, to calling for Mubarak to leave office, to then describing the success of the Revolution as the culmination of progressive stages of activism: Jihad by the heart (quiet perseverance), then the tongue (protest), then the hand (revolution). By contrast, Tayyib appeared satisfied with the regime’s promises of reform and Mubarak’s sacking of the government on January 29. Jum’a argued that the protests had initially been legitimate, but then became illegitimate as chaos increased. Laying the blame for this disruption upon the anti-government protesters, Jum’a’s arguments made repeated reference to

the harm the protests appeared to be causing. What is noteworthy here is that the ‘*ulamā*’ debated their positions on the same terms, forming their understanding of the *maṣlaḥa* interdependently as they contested concepts like obedience to the ruler.<sup>31</sup>

Currently, in the study of the contemporary ‘*ulamā*’, how best to make sense of the inconsistencies between their abstract theories and their statements in response to immediate events remains something of an enigma. Zaman argues that the ‘*ulamā*’ should be viewed as activists just as much as they are studied as articulators of consistent theories, and that there is little to be gained from highlighting the instances when an ‘*ālim*’s theory and practice are inconsistent.<sup>32</sup> At the same time, however, I contend that the ‘*ulamā*’ have internalized the hegemonic assumption that a changing argument inconsistent with a previous position requires a particular justification. Moreover, the ‘*ulamā*’ view their interventions in the public as the interventions of religious leaders in politics. As such, even though they think their interventions are legitimate, they nevertheless think they are doing something that requires an additional justification. I suggest ‘*ulamā*’ provide such a justification by producing knowledge *ex post facto* theories in an attempt to demonstrate that their changing *maṣlaḥa* reasoning did indeed conform to an overarching model, and was consistent with the source texts. The production of *fiqh al-thawra* in the aftermath of the Revolution is one such example of this trend.

### **Producing *Fiqh al-Thawra* After the Egyptian Revolution**

Knowledge is produced socially, which is to say that knowledge is the product of a particular social context. Islamic legal knowledge, *fiqh*, is no exception. I have argued that Qaradawi and his allies assumed that their *maṣlaḥa*-based interventions in the public sphere required additional

justification, because they have internalized the categorization that they are religious leaders intervening in the realm of politics. As a result, Qaradawi and his colleagues begin to produce knowledge in the form of models to show that their *maṣlaḥa* reasoning had an overarching and consistent structure and was not simply the creation of their whims. Qaradawi and his colleagues called this knowledge *fiqh al-thawra*.

Qaradawi began producing this *fiqh al-thawra* two days after Mubarak's departure on February 13 2011 during an episode of *Sharia and Life*, the popular Aljazeera program he had hosted since 1996. His first goal was to establish the legitimacy of non-violent protests as a means to reform a government or overthrow a regime. The need to legitimize protests in Islamic legal terms had become necessary because it had been contested by Qaradawi's interlocutors.<sup>33</sup> Qaradawi argued that a rebellion (*khurūj*) as discussed in Islamic legal sources explicitly referred to armed rebellion (*al-khurūj al-muṣallāh*) against a government. Since the Egyptian revolution was unarmed, it therefore should not be classified as *khurūj*.<sup>34</sup> The second part of Qaradawi's argument referred in more detail to the concept of obedience to the ruler. This concept is generally rooted in 4:59, "O you who believe! Obey God and obey the Messenger and those charged with authority from among you (*minkum*). If you differ in anything among yourselves, refer it to God and His Messenger."<sup>35</sup> In the interview, Qaradawi said that the '*ulamā*' who have argued that the ruler is entitled to unqualified obedience have made the mistake of reading this particular verse in isolation, neglecting the verse that precedes it. The preceding verse (4:58) reads, "God commands you to render back your Trusts (*amānāt*) to those to whom they are due; and when you judge between people that you judge with justice: truly how excellent is the teaching which He has given you! For God is He who hears and sees all things."<sup>36</sup> If we turn our

attention to this preceding verse, Qaradawi told his audience, then it becomes clear that “God has charged [rulers] with ruling according to two foundational principles. First: rendering security to the people, to the full extent of the word “Trusts” (*amānāt*). Second: Ruling the people with justice.” Qaradawi’s argument focuses on a reinterpretation of the term “Trusts” (*amānāt*). This term is interpreted, by the exegete Ibn Kathir (d.1373) for example, as referring to something that someone is expected to take care of, be it on behalf of someone else, or the obligations a believer is entrusted with by God (i.e. prayer).<sup>37</sup> Here, Qaradawi interpreted the term *amānāt* in the light of the remainder of the verse, which referred to ruling with justice. As such, Qaradawi argued that *amānāt* referred to the security and protection a ruler is expected to provide to the people.

Qaradawi then argued that those who have focused solely on the second of these two verses, 4:59, and interpret the clause “Obey God and obey the Messenger and those charged with authority from among you” have not taken into account the specificity of “from among you” (*minkum*). Qaradawi argued that “from among you” means the ruler is an agent of the people, rather than in a position of dominion.<sup>38</sup> With this point in mind, Qaradawi argued that there is a need to change the prevailing culture among the security forces, who view themselves as the servants of the ruler. Instead, Qaradawi said that the security forces must understand they are servants of the citizenry.<sup>39</sup>

To justify his own interventions in support of the Revolution, Qaradawi then highlighted historical moments when the *‘ulamā’* have sided with the people against oppressive rulers. Qaradawi cited the examples of Sa‘id Ibn Jubayr, who famously participated in the rebellion against the Umayyads, and ‘Abd al-Qadir’s resistance against the French in Algeria. Rather than appealing to a specific text as he makes this argument, Qaradawi’s argument appealed to “the

spirit (*rūḥ*) of the Quran, and the spirit of the Sunna, and the spirit of those who strive for the sake of God.” Then, responding to Jum‘a’s argument that the common good was best served by people remaining in their homes, Qaradawi asked “how can a Muslim ‘ālim forbid an individual Muslim from speaking the truth, and commanding the good and forbidding the wrong?”<sup>40</sup>

For Qaradawi, the non-violence of the protesters during the Egyptian Revolution represented a model to be replicated. With that in mind the RTQ and the Doha-based Qaradawi Center for Islamic Centrism and Renewal (*markaz al-qaraḍāwī li’l-wasaṭiyya wa’l-tajdīd*) produced a book titled *25 January: A People’s Revolution*. In the introduction, Qaradawi wrote that his purpose was to “take the opportunity to present a jurisprudence of revolution (*fiqh al-thawra*) to the umma.”<sup>41</sup> As such, Qaradawi first point is to assert the legitimacy of *maṣlaḥa*-based reasoning saying, “whoever reads the books of *fiqh* will find hundreds of examples of rulings that base their analogical reasoning on the logic of *maṣlaḥa*.”<sup>42</sup> Notably, Qaradawi also writes that a purpose of the book is to respond to criticisms of his role during the Revolution, particularly his return to Cairo for the Tahrir Square Sermon on February 18 2011. The sermon had been praised in the Egyptian daily *al-Miṣrī al-Yawm* as “one of the greatest sermons of the modern era,”<sup>43</sup> while in the Western media the image of a prominent ‘ālim returning from exile after a revolution had seen him dubbed the “Egyptian Khomeini.” At the same time, other portions of the Egyptian media were highly critical of his return, and the television channel *Miṣr al-Nahār Dah* even banned Qaradawi from appearing on air for fear of where further boosts to his stature might lead at that tumultuous time.<sup>44</sup> The prominent journalist Mohamed Hassanein Heikal (d.2016) also drew comparisons between Qaradawi and Khomeini, and argued that Qaradawi’s return represented an effort by the Muslim Brotherhood to co-opt the Revolution.



Qaradawi took this criticism seriously, and attempted to respond to Heikal's concerns in *25 January*. Significantly, Qaradawi's defended his role during the Revolution by saying that there was a need to contribute legitimate *fiqh* opinions in the face of obfuscation by the Shaykh of al-Azhar and the Grand Mufti. Qaradawi argued that Egypt's youth were able to determine who was legitimately on the side of the Revolution and who was not.<sup>45</sup> My point is that Qaradawi acknowledged Heikal's criticism that his support for the Revolution was the intervention of a religious scholar in politics and, as such, required additional justification.

While Aria Nakissa has written in more detail about how Qaradawi legitimated his *fiqh* arguments in support of the Revolution in relation to pre-existing *fiqh* rulings,<sup>46</sup> in this chapter I am also concerned with how this knowledge is arranged in texts to produce certain effects. Aside from Qaradawi's introduction, the book *25 January* does not contain any original material, but instead begins with two fatwas he had published in 2009 and 2010. In the book, these two fatwas are then followed by a verbatim reproduction of all Qaradawi's media interventions during the Revolution. This arrangement is intended to produce the effect that Qaradawi's *maṣlaḥa* reasoning during the Revolution was consistent with his earlier positions as represented by these two fatwas.

The first fatwa is titled "Who pronounces the corruption of the ruler?" and Qaradawi argued that such a pronouncement rested with "the '*ulamā*' who are free" that is, those who do not serve in state institutions. Moreover, Qaradawi emphasized that being "free" '*ulamā*' did not mean they were at liberty to intervene in the public sphere however they saw fit. Instead, they must follow "the Muslim general will (*al-ra'ī al-āmm*) and the public's Islamic conscience (*al-ḍamīr al-āmm*), which binds (*yaqayyid*) those among the '*ulamā*' who are free."<sup>47</sup> The second

fatwa referred to the legitimacy of peaceful protests, and Qaradawi referred specifically to the concern that they are an imported political practice from the West and, as such, illegitimate.<sup>48</sup>

Qaradawi's argued, "The important thing is we take [from the West] that which is in accordance with our doctrines, values, and laws (*sharā'i nā*)."<sup>49</sup> In the fatwa, Qaradawi elaborated in greater detail what he meant,

If they [protests] serve legitimate ends, like calling for the implementation of shari'a, or freeing those imprisoned without legitimate grounds, or halting military trials of civilians, or cancelling a state of emergency that gives the ruler absolute powers, or achieving people's general aims like making available bread, oil, sugar, gas, or other aims whose legitimacy admits of no doubt in things like these, legal scholars do not doubt the permissibility [of demonstrations].<sup>50</sup>

Placing these two fatwas prior to the reproduction of Qaradawi's interventions during the Revolution, was intended to produce the effect that his practice during the Revolution followed, not just a consistent position, but also the will of the public. *25 January* was intended to lay the foundations for *fiqh al-thawra*.

### **Producing *Fiqh al-Thawra* Through Commentary**

In the attempt to establish *fiqh al-thawra* as a new model of *maslaḥa* reasoning, Qaradawi was assisted by his colleagues from IUMS. In this section I examine the *fiqh al-thawra* literature as commentaries. Commentaries provide a new discourse with an "identity and sameness" whereby "new verbal acts are reiterated, transformed, or discussed" and, I would add, further established.<sup>51</sup> I will now examine three works by 'Ali Muhyi al-Din al-Qaradaghi (b.1949),

Wasfi Abu Zayd (b.1975) and Ahmad al-Raysuni, which I argue should be understood as commentaries producing *fiqh al-thawra*.

The establishment of *fiqh al-thawra* through commentary comes first in the form of articles, and then in books. Qaradaghi published an article in July 2011, and his aim was to respond to the assertion that non-violent protests inevitably led to violence and civil strife. To do so, Qaradaghi produced a model listing the criteria that protests must conform to if they were to be considered legitimate. He argued that a non-violent protest could only retain its legitimacy if it remained peaceful, “Even if they face armed repression from the government, they must not deviate from non-violence.” Moreover, protests were only to occur “as a response to government injustices, or due the passing of legislation that contravenes the rulings of the Sharia (*aḥkām al-sharī‘a*) such as the permitting of usury, alcohol, alcoholism, or moral depravity.”<sup>52</sup> As an elaboration on Qaradawi’s argument that protests could only serve “a legitimate end, such as calling for the implementation of the Sharia, or freeing those imprisoned without legitimate grounds,”<sup>53</sup> Qaradaghi said protests were legitimate if they had “legitimate intentions (*maqāṣid mashrū‘a*), such as casting off oppression” but “may not have personal, or party political interests.” If protests observed this model, Qaradaghi argued, then they were legitimate and could not be considered *khurūj*. Qaradaghi said that, rather than being *khurūj*, non-violent protest was a contemporary means of commanding the right and forbidding the wrong. Moreover, while Jum‘a argued that otherwise legitimate protests became illegitimate if they cause violence and civil strife, grounding his reasoning in the concept of *sadd al-dharā‘i‘*, Qaradaghi’s reasoning was based on intentions. Qaradaghi implied that if non-violent protests unintentionally led to a violent uprising they would still have been legitimate.<sup>54</sup>

Abu Zayd's commentary was far more detailed, and appeared as a book titled, *Qaradawi, The Revolutionary Imam*. Like the members of the RTQ who produced *25 January*, Abu Zayd aimed to show that Qaradawi's *maṣlaḥa* reasoning during the Revolution was consistent with both the source texts and Qaradawi's earlier writings. To produce this effect, Abu Zayd's book was structured in the same way as *25 January* inasmuch as Abu Zayd's own commentary was placed prior to the verbatim reproduction of Qaradawi's interventions over the course of the Revolution's eighteen days. Abu Zayd's commentary was structured to present the reader with each set of legal sources, including the Qur'an, the Sunna, the *maqāṣid al-sharī'a* and legal maxims that, as he put it, "nourished" (*ghadhā*) Qaradawi's reasoning during the Egyptian Revolution.<sup>55</sup> As with *25 January*, this arrangement intended to produce the the effect that Qaradawi's practice followed a model, rather than vice versa.

In Abu Zayd's first chapter, "Qaradawi's Sharia-based points of departure during the Revolution," he established a connection between the textual source material and Qaradawi's *maṣlaḥa* reasoning in a novel way. Abu Zayd first presented a list of thirty short Quranic verses that related thematically to resisting oppressive rule, such as verse 71:4 "For when the Term given by God is accomplished, it cannot be put forward, if ye only knew."<sup>56</sup> It is striking that these verses, followed by a selection of hadith such as, "the best Jihad is to speak a word of truth to an unjust ruler," were presented as a simple list and surrounded on the page by empty space. As such, they were disconnected from a discussion of the circumstances of their revelation (*asbāb al-nuzūl*), or any exegetical or other legal commentary.<sup>57</sup> This arrangement facilitated Abu Zayd's argument that these Qur'anic verses and hadith, as a whole, "place a special emphasis on one meaning and one concept [alone], the resistance of oppression."<sup>58</sup> Abu Zayd

argued that these sources acted as a whole, rather than individually, to channel Qaradawi's *maṣlaḥa* reasoning during the Revolution.

The next stage of Abu Zayd's commentary was to draw connections between Qaradawi's reasoning and legal motifs derived from premodern authorities, such as the concept of *fiqh al-wāqī'* (a deep and true understanding of the social reality) attributed to Ibn al-Qayyim. In Abu Zayd's commentary, the relationship between Qaradawi's reasoning and the social reality is a reciprocal one, which works by "understanding the necessities of the reality, and understanding the law of God that is relevant to it either in the Qur'an or the Sunna, then applying one to the other."<sup>59</sup> At the same time, Qaradawi and Abu Zayd's referral to *fiqh al-wāqī'* is slightly different. In Qaradawi's own writings relating to the jurisprudence of Muslim minorities, for example, the social reality is presented as a justification to relax a specific ruling by demonstrating a legal necessity (*ḍarūra*). By contrast, here Abu Zayd posits an attentiveness to the social reality as an explanation for why Qaradawi's positions changed over the course of the eighteen days of the Revolution. Rather than portraying Qaradawi's waiting for five days before explicitly calling for Mubarak's departure as an inconsistency in need of justification, Abu Zayd described this shift as a feature of Qaradawi's "attentiveness" (*wa'ī*) to the changing social reality.<sup>60</sup> Abu Zayd cited statistics to produce knowledge of social reality that appeared objective. For example, Abu Zayd cited a statistic that forty percent of Egyptians lived in poverty in order to produce seemingly objective evidence for the necessity of Mubarak's departure. Then, Abu Zayd attributed the shift in Qaradawi's argument to calling for Mubarak's departure to Qaradawi's awareness that this departure was the will of the people, and again Abu Zayd attempted to establish this necessity numerically. Abu Zayd reported that when Qaradawi

understood that eight million young Egyptians had taken to the streets across the country, he realized the revolution was a true representation of the people's will or the "public conscience" as Qaradawi put it. This was because those eight million protestors represented the will of their extended families as well, who "supported [the revolutionaries] in their hearts, but were not themselves able [to go out and protest]."61

The second chapter of Abu Zayd's book is titled a presentation of the "the legal maxims regulating Qaradawi's discourse during the revolution." The chapter is divided into ten sections, each beginning with a legal maxim.<sup>62</sup> Legal maxims are short epithetical statements that are occasionally taken from the Qur'an or hadith but are more commonly found in the work of premodern authorities, who considered them to be expressive of the goals of the Sharia. As is clear from the title, Abu Zayd's goal in this chapter was to emphasize that Qaradawi's *maṣlaḥa* reasoning was "regulated" by the Sharia, as evidenced by the maxims, and was not simply the product of his whims. Abu Zayd's argument was predicated upon making connections between a general maxim and a specific example taken from Qaradawi's reasoning during the Revolution. For example, one maxim read, "an action that is necessary to fulfil an obligation is itself an obligation" (*mā lā yatimm al-wājib ilā bihi fa-huwa wājib*). Abu Zayd's commentary proceeded by first citing the maxim in the work of a premodern authority, in this case, al-Ghazali's (d.1111) *al-Mustasfā*. Abu Zayd then provided a premodern example showing how this maxim had been utilized in the past. In this example Abu Zayd cited a statement from al-Zarkashi (d.1373) that argued a portion of water containing a ritually unclean substance, such as blood or urine, became unlawful in its entirety. The analogy Abu Zayd drew between al-Zarkashi's example and Qaradawi's discourse is striking, "and among the applications of this [maxim] in Qaradawi's

discourse is that the corruption that had come to pass [in Egypt], the repression, the poverty, the authoritarianism that had reached such an extent that it had to be changed and stood up against, and would not end except by going out in mass demonstrations.”<sup>63</sup> In Abu Zayd’s presentation, this maxim regulated Qaradawi’s reasoning as he produced his fatwa that attending demonstrations, especially on Fridays, was obligatory for all who were able. As Abu Zayd put it, Qaradawi’s knowledge of the goals of the Sharia, evidenced by this maxim, played a role in structuring Qaradawi’s legal reasoning, so he realized that reforming the regime piecemeal was not possible, and it had to be swept away in its entirety by revolution.

Another of Abu Zayd’s maxims stated, “All that contravenes a fixed principle is invalid” (*kull mā khālīf aṣṣan qaṭa ‘iyyan mardūd*), which Abu Zayd drew from al-Shatibi’s *al-Muwāfaqāt*. In Abu Zayd’s commentary, this maxim regulated Qaradawi’s rebuttal of the arguments made by Jum‘a, Tayyib when they cited specific verses or hadith, such as “*fitna* is sleeping, may God curse whoever wakes it,” in order to argue for obedience to a ruler (i.e. Mubarak) no matter the circumstances. After presenting the maxim Abu Zayd then quoted from an interview by Qaradawi on *Sharia and Life* during the Revolution in which he said,

I am truly sorry that the great ‘*ulamā*’ accuse these youth of going astray, rebelling against Islam, and causing *fitna* [...] I do not know how they [the ‘*ulamā*’] could have forgotten the verses and hadith that reject oppression! Hundreds of verses in the Holy Qur’an reject oppression, and curse the oppressors.<sup>64</sup>

Abu Zayd then gave his commentary on Qaradawi’s words,

So, the Shaykh here is explaining that it is not correct jurisprudence and not rational that we abandon clear texts and explicit rulings, and become preoccupied with speculative interpretations and unclear texts [...] how can [anyone] oppose the hundreds of verses and sound hadith that make explicit the matter [of opposing injustice] without any doubt or hesitation?<sup>65</sup>

In Abu Zayd's commentary the number of Qur'anic verses and hadith that condemn oppressive rule serve to establish, in their entirety, resistance to oppression as a "fixed principle," as per the aforementioned maxim. As such, this fixed principle of resisting oppression outweighed any individual verses or hadith that others may have cited in order to argue for obedience to an unjust ruler.<sup>66</sup> It was only after Abu Zayd has established this model in this manner over three chapters and one hundred and seventy pages that he then presented to the reader the texts of each of Qaradawi's fatwas and interviews with the media over the eighteen days of the Revolution. The effect that this arrangement produced for the reader was that Qaradawi's changing *maṣlaḥa* reasoning were channelled by the texts of the Quran, the Sunna, legal maxims, and were also consistent with Qaradawi's own oeuvre on the basis of motifs such as *fiqh al-wāqī'*.

The final commentary to be discussed here takes a very different form to the others. Rather than focusing on Qaradawi in particular, or attempting to produce a model that might channel *maṣlaḥa* reasoning in future revolutions and produce the effect of consistency, al-Raysuni took an entirely different approach. Completed in January 2012, Raysuni's book *Fiqh al-Thawra* argued instead that the *maṣlaḥa* was not to be found through particular models, but was instead the result of contestation. At first, Raysuni's argument proceeded along lines familiar to readers of Qaradawi: the achievement of the *maṣlaḥa* in public life represented the achievement of the purposes of the Sharia (*maqāṣid al-sharī'a*). However, while Qaradawi argued for the need to allow for *maṣlaḥa* reasoning that was not grounded in the texts and can



revise pre-existing rulings, Qaradawi also imagined the substance of the *maṣlaḥa* to be something that can be agreed upon definitively in a particular context. It was in this regard that Raysuni, in my reading, departed from Qaradawi. Qaradawi argued for the maintenance of what he called the constants of the community (*thawābit al-umma*), and expressed a certain frustration that issues long thought to have been closed to consensus were re-debated.<sup>67</sup> Raysuni, by contrast, appeared to envisage the finding of the *maṣlaḥa* to be the result of active contestation and bargaining between people, rather than coming as the result of interpreting the text in the light of new social conditions or following prevailing social customs (as Qaradawi would say). Raysuni described the relationship between the source texts and politics or systems of government as vague. For Raysuni, what was required then was, not only the motifs that one might expect: independent reasoning (*ijtihād*), consultation (*shūra*) etc., but also another concept that Raysuni called *al-ta'āruf*.<sup>68</sup> Contrasting *al-ta'āruf* with social custom (*al-'urf al-ijtimā'ī*), which societies have agreed upon passively over time, Raysuni elaborated upon what he intended by this concept,

I mean by *al-ta'āruf* that which the people consciously decide upon as result of intentional choice. So the meaning of *al-ta'āruf* is more specific than social custom. Though social custom is established and accepted by the people, it is concluded passively over time. As for *al-ta'āruf*, it carries the meaning of mutual understanding, mutual agreement, and active bargaining [...] As such, while social custom (*al-'urf al-ijtimā'ī*) is a suitable point of reference for the public in terms of their mutual interactions and ways of thinking, it is neither suitable nor sufficient for politics or governance.<sup>69</sup>

What Raysuni intended by *al-ta'āruf* becomes clearer when he elaborated upon his understanding of the application of the Sharia. Raysuni elaborated upon a frequently quoted

passage from al-Ghazali's *al-Mustasfā* to the effect that whatever achieves the purposes of the Sharia represented the *maṣlaḥa*. "All that guarantees the preservation of these five foundational purposes [faith, life, rationality, progeny, property], that is the *maṣlaḥa*."<sup>70</sup> To Raysuni, this passage meant, "All that is good and brings benefit on the face of the earth, and consequently avoids corruption or harm on the face of the earth, that is the Sharia."<sup>71</sup> As such, achieving the *maṣlaḥa* is a true representation of the Sharia. In contrast to a figure like Qaradawi, whose theoretical writings on the *maṣlaḥa* focus on the realm of good governance (*siyāsa shar'īyya*),<sup>72</sup> Raysuni considered the application of the Sharia to extend beyond the realm of the government, but was also a responsibility of civil society at large.<sup>73</sup>

## Conclusion

This chapter has investigated the *maṣlaḥa* reasoning of prominent '*ulamā*' during the Egyptian Revolution and its aftermath, focusing in particular on al-Qaradawi and his IUMS colleagues. During the Egyptian Revolution, I have argued that the '*ulamā*'s understanding of the *maṣlaḥa* took shape interdependently, rather than in isolation. I also argued that as a result of the colonial process the '*ulamā*' have internalized the hegemonic distinction between religion and politics. Resulting from this internalization is the assumption that political activism should be consistent in order to be considered sincere, and religious reasoning must be grounded in texts. As such, while Zaman argued that the '*ulamā*' should not be approached solely as "systematic thinkers articulating an internally consistent philosophy, but rather as activist intellectuals responding over the course of long careers to new and old controversies,"<sup>74</sup> with any deviation from their theories being criticised as inconsistency, the '*ulamā*' themselves attempt to produce the effect

that their *maṣlaḥa* reasoning is consistent with their earlier arguments. The ‘*ulamā*’ take great pains to emphasise that their *maṣlaḥa* reasoning is not only regulated by the texts and the tradition of their scholarly forebears, but also bound by the will of the public, in whose name they claim to speak. The ‘*ulamā*’ who are the most successful in this regard work as mutually supportive networks, and members the IUMS network surrounding Qaradawi produced models through commentary to create *fiqh al-thawra* after the 2011 Revolution. Abu Zayd’s model aimed to show the Qaradawi’s changing *maṣlaḥa* reasoning was consistent with the source texts, legal maxims, and Qaradawi’s oeuvre at large, while Qaradaghi produced a model attempting to overturn the connection between non-violent protests and civil strife. A notable exception to this trend, however, was the work of Raysuni, who pointed toward an argument that finding of the *maṣlaḥa* was the result of mutual contestation by multiple voices, rather than an individual’s reading of the text in the light of changing social conditions. The aftermath of the Egyptian coup in 2013 may have rendered IUMS’s effort to produce a *fiqh al-thawra* redundant for now, and Qaradawi’s support for the Sunni regime’s repression in Bahrain in February 2011 severely weakened his own authority among large segments of the Arab public.<sup>75</sup> At the same time, Raysuni’s concept of mutual contestation and deliberation, or *al-ta’āruf*, as a means of finding the *maṣlaḥa* may offer an important new vista for the politics in the Arab World.

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<sup>1</sup> Samira Haj, *Reconfiguring Islamic Tradition: Reform, Rationality, and Modernity* (Stanford, CA: Stanford University Press, 2009), 77–83.

<sup>2</sup> Muhammad Qasim Zaman, *Modern Islamic Thought in a Radical Age: Religious Authority and Internal Criticism* (Cambridge: Cambridge University Press, 2012), 109–10.

<sup>3</sup> Felicitas Opwis, “Maṣlaḥa in Contemporary Islamic Legal Theory,” *Islamic Law and Society* 12, no. 2 (2005): 182–223 (18–20).

<sup>4</sup> Malcolm H. Kerr, *Islamic Reform: The Political and Legal Theories of Muhammad ‘Abduh and Rashīd Riḍā* (Berkeley, CA: University of California Press, 1966), 203–8.

<sup>5</sup> Aria Nakissa, “The Fiqh of Revolution and the Arab Spring: Secondary Segmentation as a Trend in Islamic Legal Doctrine,” *The Muslim World* 105, no. 3 (2015): 298–321 (5–6).

- <sup>6</sup> Cairo's Dār al-'Ulūm was founded in 1872 as a state-run, higher-education institution. For more on the Dār al-'Ulūm see Hilary Kalmbach, "Dār al-'Ulūm," ed. Kate Fleet et al., *Encyclopaedia of Islam* (Leiden: Brill, n.d.).
- <sup>7</sup> Dale Eickelman and James Piscatori, *Muslim Politics* (Princeton, NJ: Princeton University Press, 1996), 131.
- <sup>8</sup> Abdulkader Tayob, "Religion in Modern Islamic Thought and Practice," in *Religion and the Secular: Historical and Colonial Formations*, ed. Timothy Fitzgerald (London: Acumen, 2007), 177–92 (12–3).
- <sup>9</sup> Timothy Fitzgerald, "Encompassing Religion, Privatized Religions and the Invention of Modern Politics," in *Religion and the Secular: Historical and Colonial Formations*, ed. Timothy Fitzgerald (London: Acumen, 2007), 211–40.
- <sup>10</sup> Yūsuf al-Qaraḍāwī, *al-Dīn wa'l-Siyāsa: Ta'sīl wa-Radd Shubuhāt*, 2nd ed. (Cairo: Dār al-Shurūq, 2013), 70.
- <sup>11</sup> Yūsuf al-Qaraḍāwī, *25 Yunāyir Thawrat Sha'b: al-Shaykh al-Qaraḍāwī wa'l-Thawra al-Miṣriyya* (Cairo: Maktabat Wahba, 2011), 36–37.
- <sup>12</sup> Ibid.
- <sup>13</sup> Nakissa, "Fiqh," 10–14.
- <sup>14</sup> al-Qaraḍāwī, *25 Yunāyir*, 38–40.
- <sup>15</sup> "Timeline: Egypt's Revolution A Chronicle of the Revolution That Ended the Three-Decade-Long Presidency of Hosni Mubarak," *Aljazeera*, February 14, 2011, <http://www.aljazeera.com/news/middleeast/2011/01/201112515334871490.html>.
- <sup>16</sup> al-Qaraḍāwī, *25 Yunāyir*, 39.
- <sup>17</sup> "Timeline."
- <sup>18</sup> Aḥmad al-Ṭayyib, Aḥmad al-Ṭayyib Yuftī bi-an Muẓāhirāt Mīdān al-Taḥrīr Ḥarām Shar'an, n.d., <https://www.youtube.com/watch?v=-bFg3MfyPuI>.
- <sup>19</sup> al-Qaraḍāwī, *25 Yunāyir*, 42–43.
- <sup>20</sup> "Timeline."
- <sup>21</sup> 'Alī Jum'a, Muftī Miṣr, February 2, 2011, <https://www.youtube.com/watch?v=7leQws-tEB0&list=FLHfyNVWjX2twX7IcYPOURZA&index=32>.
- <sup>22</sup> 'Alī Jum'a, Maqṭa' Sawtī li'l-Muftī 'Alī Jum'a Athnā' al-Thawra, October 25, 2011, [http://www.youtube.com/watch?v=hzf\\_79q9fKo](http://www.youtube.com/watch?v=hzf_79q9fKo). Nakissa, "Fiqh," 14.
- <sup>23</sup> Jum'a, Muftī Miṣr.
- <sup>24</sup> Nakissa, "Fiqh," 14.
- <sup>25</sup> al-Qaraḍāwī, *25 Yunāyir*, 58.
- <sup>26</sup> Ibid., 60.
- <sup>27</sup> 'Alī Jum'a, Fatwā D. 'Alī Jum'a bi-Khuṣūṣ Tazāhirāt Yawm al-Jum'a, n.d., <https://www.youtube.com/watch?v=98tPO8eC310&list=FLHfyNVWjX2twX7IcYPOURZA&index=30>.
- <sup>28</sup> Ibid.
- <sup>29</sup> al-Qaraḍāwī, *25 Yunāyir*, 108.
- <sup>30</sup> An example of this qualified support came during an uprising in Cairo's Ain Shams district in 1988. While the 'ulamā' of al-Azhar quickly legitimized the government's violent crackdown, Qaradawi emphasized the need for the taking of peaceful measures to re-exert control of the district. However, Qaradawi also said, "we believe in the faith of the regime and we trust the regime's faith in Egypt." He also said that the Qur'an and Sunna "stipulate clear ways for thwarting deviations from the correct path, which do not include [...] undue haste in stipulating reforms." Raymond W. Baker, *Islam Without Fear: Egypt and the New Islamists* (Cambridge, MA: Harvard University Press, 2003), 83–89.
- <sup>31</sup> In more general terms, Muhammad Zaman refers to this process as "internal criticism." See Zaman, *Modern*.
- <sup>32</sup> Ibid., 310.
- <sup>33</sup> Nakissa, "Fiqh," 10–14.
- <sup>34</sup> Qaradawi argues that there are three ways to change a government: First, by democratic elections. Second, by a peaceful revolution. The third means is by a process *taghallub*. Qaradawi describes *taghallub* as the swift overthrow of one government and its replacement with another by force. In Qaradawi's description, overthrowing a government by force can be legitimate on the basis that the overthrow occurs with such immediate and overwhelming force that a civil war is avoided. Ironically, this is the justification put forward in July 2013 by 'Alī Jum'a to legitimate the coup. al-Qaraḍāwī, *25 Yunāyir*, 126

- <sup>35</sup> Abdullah Yusuf Ali, *The Meaning of the Holy Qur'an* (Brentwood, MN: Amana, 1991), 203. I have preferred to use Yusuf Ali's translation for this chapter, but have preferred the word God in place of Allah.
- <sup>36</sup> Yusuf Ali, *Meaning*.
- <sup>37</sup> Ibn Kathīr writes that the term *amānāt* "refers to all things that one is expected to look after, such as God's rights on His servants: praying, Zakah, fasting, penalties for sins, vows and so forth. The [term] also includes the rights of [believers] on each other, such as what they entrust each other with". Saifur Rahman al-Mubarakpuri, trans., *Tafsir Ibn Kathir*, vol. 2, 6 vols. (New York, NY: Darussalam, 2000), 493.
- <sup>38</sup> al-Qaradāwī, 25 *Yunāyir*, 152–53.
- <sup>39</sup> Ibid., 143.
- <sup>40</sup> Ibid., 159.
- <sup>41</sup> Ibid., 7.
- <sup>42</sup> Ibid., 32.
- <sup>43</sup> Samīr Farīd, "al-Qaradāwī fī Ihḍā A'ḥām Khuṭab al-'Aṣr al-Ḥadīth Yu'akkid Istimrār al-Thawra," *al-Maṣrī al-Yawm*, February 19 2011, <http://today.almasryalyoum.com/article2.aspx?ArticleID=288341>.
- <sup>44</sup> Bettina Gräf, "Media Fatwas and Fatwa Editors: Challenging and Preserving Yusuf al-Qaradawi's Religious Authority," in *Media Evolution on the Eve of the Arab Spring*, ed. Leila Hudson, Adel Iskandar, and Mimi Kirk (New York: Palgrave MacMillan, 2014), 139–57 (2).
- <sup>45</sup> Qutb al-'Arabī, "Haykal wa'l-Qaradāwī wa'l-Khumaynī," *al-Yawm al-Sabī'*, February 20 2011, <http://www.youm7.com/News.asp?NewsID=355329>; al-Qaradāwī, 25 *Yunāyir*, 8–9.
- <sup>46</sup> Nakissa, "Fiqh," 8–18.
- <sup>47</sup> al-Qaradāwī, 25 *Yunāyir*, 21–23; idem, *Fiqh al-Jihād*, 1:204–9. More specifically, Qaradawi grounds his legitimacy in his view that he is giving voice to the will of the Egyptian nation, though further discussion of this point is beyond the remit of this chapter.
- <sup>48</sup> Nakissa, "Fiqh," 14–15.
- <sup>49</sup> al-Qaradāwī, 25 *Yunāyir*, 31.
- <sup>50</sup> Ibid., 33. Quoted in Nakissa, "Fiqh," 17.
- <sup>51</sup> Michel Foucault, *The Archaeology of Knowledge & The Discourse on Language* (New York: Pantheon, 1972), 220.
- <sup>52</sup> 'Alī al-Qaradāghī, "al-Ta'sīl al-Shar'ī li'l-Muḥāhirāt al-Silmiyya," July 8, 2011, [http://www.qaradaghi.com/portal/index.php?option=com\\_content&view=article&id=1978:2011-07-08-06-57-23&catid=14:2009-04-11-15-11-36&Itemid=8](http://www.qaradaghi.com/portal/index.php?option=com_content&view=article&id=1978:2011-07-08-06-57-23&catid=14:2009-04-11-15-11-36&Itemid=8).
- <sup>53</sup> al-Qaradāwī, 25 *Yunāyir*, 33.
- <sup>54</sup> al-Qaradāghī, "al-Ta'sīl."
- <sup>55</sup> Waṣfī Abū Zayd, *al-Qaradāwī al-Imām al-Thā'ir: Dirāsa Taḥlīliyya Uṣūliyya fī Ma'ālim Ijtihādihi li'l-Thawra al-Miṣriyya* (Britton Farms, OH: Sulṭān li'l-Nashr, 2011), 44.
- <sup>56</sup> Yusuf Ali, *Meaning*, 1533.
- <sup>57</sup> Nakissa, "Fiqh," 19.
- <sup>58</sup> Abū Zayd, *al-Imām*, 49.
- <sup>59</sup> Abū Zayd, *al-Imām*, 56–58.
- <sup>60</sup> Ibid.
- <sup>61</sup> Ibid., 59.
- <sup>62</sup> Nakissa, "Fiqh," 18–19.
- <sup>63</sup> Abū Zayd, *al-Imām*, 114–15.
- <sup>64</sup> Ibid., 133.
- <sup>65</sup> Ibid.
- <sup>66</sup> Nakissa, "Fiqh," 19.
- <sup>67</sup> Zaman, *Modern*, 134.
- <sup>68</sup> Aḥmad al-Raysūnī, *Fiqh al-Thawra: Murāji'at fī'l-Fiqh al-Siyāsī al-Islāmī* (Beirut: Namaa for Research and Studies Center, 2012), 13.
- <sup>69</sup> Ibid., 13, n. 1.

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<sup>70</sup> Ibid., 74.

<sup>71</sup> Ibid., 75.

<sup>72</sup> Zaman, *Modern*, 114.

<sup>73</sup> al-Raysūnī, *Fiqh*, 77.

<sup>74</sup> Zaman, *Modern*, 310.

<sup>75</sup> David H. Warren, “The ‘Ulamā’ and the Arab Uprisings 2011-13: Considering Yusuf Al-Qaradawi, the ‘Global Mufti,’ between the Muslim Brotherhood, the Islamic Legal Tradition, and Qatari Foreign Policy,” *New Middle Eastern Studies* 4 (2014): 17, 31.